

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ROCK HILL DIVISION**

COMPLAINT

NOW COMES the Plaintiff, ERIC C. MILLER, by and through his attorney, JAMES M. ERVIN, and for his Complaint against the Defendant, NATIONAL ACTION FINANCIAL SERVICES, INC., Plaintiff alleges and states as follows:

PRELIMINARY STATEMENT

1. This is an action for actual and statutory damages for violations of the Fair Debt Collection Practices Act (hereinafter the “FDCPA”), 15 U.S.C. § 1692, *et seq.*

JURISDICTION AND VENUE

2. Jurisdiction arises under the FDCPA, 15 U.S.C. § 1692, *et seq.* Venue lies properly in this district pursuant to 28 U.S.C. § 1331, as a substantial part of the events and omissions giving rise to the claim occurred within this District.

PARTIES

3. Plaintiff is an individual who was at all relevant times residing in Rock Hill, South Carolina.

4. Plaintiff is a "consumer" as defined in 15 U.S.C. § 1692a(3), as he is a natural person allegedly obligated to pay a debt.

5. At all relevant times, Defendant acted as a "debt collector" within the meaning of 15 U.S.C. § 1692a(6), in that it held itself out to be a company collecting a consumer debt allegedly owed by Plaintiff.

6. On information and belief, Defendant is a corporation of the State of Georgia, which is licensed to do business in South Carolina and which has its principal place of business in Williamsville, New York.

ALLEGATIONS

7. On or about January 7, 2010, Defendant's representatives and/or employees, including but not limited to an individual representing himself as Timothy Ormond began contacting Plaintiff by telephone in attempts to collect the aforementioned alleged debt.

8. On or about April 30, 2010, Plaintiff mailed a letter to Defendant requesting that Defendant cease all further communications with him. A copy of said letter is attached hereto as Exhibit 1.

9. Defendant received said letter on or about May 4, 2010, but Defendant's representatives and/or employees continued to contact Plaintiff by telephone in attempts to collect the alleged debt, including but not limited to placing telephone calls to Plaintiff on or about May 19, 2010 and June 6, 2010.

10. In its attempts to collect the aforementioned alleged debt, Defendant violated the FDCPA in one or more of the following ways:

- a. Continuing to communicate with Plaintiff after Defendant was notified in writing that the Plaintiff wished for Defendant to cease further communication with him, in violation of 15 U.S.C. § 1692c(c); and
- b. By acting in an otherwise deceptive, unfair and unconscionable manner and failing to comply with the FDCPA.

11. As a result of Defendant's violations as aforesaid, Plaintiff has suffered and continues to suffer personal humiliation, embarrassment, mental anguish and emotional distress.

WHEREFORE, Plaintiff, ERIC C. MILLER, respectfully prays for a judgment against Defendant as follows:

- a. Statutory damages of \$1,000.00 for each violation of the FDCPA;
- b. All reasonable attorneys' fees, witness fees, court costs and other litigation costs incurred by Plaintiff; and
- c. Any other relief deemed appropriate by this Honorable Court.

JURY DEMAND

Pursuant to Civil Rule 38, Plaintiff hereby demands a trial by jury on all issues in this action, except for any issues relating to the amount of attorneys' fees and litigation costs to be awarded should Plaintiff prevail on any of his claims in this action.

Respectfully Submitted,

/s/ James M. Ervin
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